The application of transport and termination versus unbundled elements depends on which carrier is selected by the local subscriber. The Commission's concern about the pricing method changing with the identity of the end user's local carrier is justified. The services that the incumbent LEC might provide to a competing LEC change depending on who the end user selects as its local service provider. If the end user selects the incumbent LEC and the competing LEC terminates a call to the end user, the incumbent LEC is entitled to transport and termination revenue under reciprocal compensation in addition to all other retail revenue. If the end user selects the competing LEC and the incumbent terminates a call to the end user, the competing LEC would receive reciprocal compensation.

The incumbent LEC may or may not receive any revenue from a competing LEC when the local subscriber selects the competing LEC for local service. Under full facility bypass of the incumbent, the incumbent LEC would receive nothing from the competitor. If the competing LEC needs to use part of the incumbent's network to complete its connection to the local subscriber who is subscribed to the competing LEC for local service, the incumbent would receive only unbundled network element revenue. The incumbent LEC would not receive any transport and termination, access or vertical services revenue. If the competing LEC purchased the local service under resale, the incumbent would receive the wholesale revenue and the access revenue related to the local subscriber.

The instance where unbundled elements and transport and termination might be difficult to distinguish is the connection between "an incumbent LEC's central office and an interconnector's network." (NPRM ¶233) Confusion disappears when this connection is defined as an unbundled network element called an inter-network connection. Lincoln suggests this connection should be a flat-rated unbundled network element. Only unbundled elements can be flat-rated according to the Act (Section 252(d)). Defining the inter-network connection as an unbundled element restores clarity in how to price this link.

Para. 235-238 Lincoln opposes artificial symmetry in the reciprocal compensation process for the disadvantages cited by the Commission in Paragraph 237 of the Notice. Each carrier should be entitled to recover its total costs. An artificially imposed symmetry achieves expediency at the expense of economic efficiency thereby eliminating some of the benefits of competition intended by the Act.

F. Exemptions, Suspensions, and Modifications

Para. 261 The Commission should establish some standards that would assist the states with their duties under Section 251 (f). Paragraph 261 of the Notice seeks comment on whether the Commission can and should establish some standards that would assist the states in satisfying their obligations under Section 251 (f) of the Act. Section 251 (f) (2) provides that a local exchange carrier with less than 2 percent of the nation's access lines may petition a state commission for a suspension or modification of the requirement or requirements of Sections 252 (b) or 252 (c) of the Act to telephone exchange service facilities specified in such a petition. The state commission shall grant such a petition to

the extent and for the duration that it determines such a suspension or modification is necessary;

> (i) to avoid a significant adverse economic impact on users of telecommunications services generally; (ii) to avoid imposing a requirement that is unduly economically burdensome; or (iii) to avoid imposing a requirement that is technically infeasible and (B) is consistent with the public interest, convenience, and necessity.

Congress included this provision because it recognized that companies of this size, often referred to as small and mid-size companies, lack the economies of scale and scope possessed by other incumbent LECs. In addition, these companies do not serve large, multi-state regions which have many metropolitan areas, thus, their total revenue base is at greater risk because it is concentrated in a smaller proportion of total customers.

The states alone have the authority to make a determination whether a suspension or modification should be granted under Section 251 (f) (2). Nonetheless, the Commission can, and should, provide guidance to the states on the criteria for a suspension or modification enumerated above.

Lincoln interprets the phrase "suspension or modification of a requirement or requirements" to mean that a local exchange carrier may petition a state commission to suspend or modify either all of the requirements contained in Sections 251 (b) and (c), or only specific requirements which it finds particularly burdensome. State commissions should be required to accept petitions for suspension or modification for specific requirements in Sections 251 (b) and (c), in addition to petitions seeking suspension or modification of all requirements of these sections.

As a guideline for determining technical feasibility, states should be required to consider whether the requested point of interconnection can be supported by the operational support systems of the local exchange carrier. If the local exchange carrier does not have the systems necessary to provide cost support data, ordering, provisioning, maintenance, or billing for a requested point of interconnection, it should be considered technically infeasible.

As a guideline for determining if a requirement is unduly economically burdensome, states should be required to consider whether a requirement of Sections 251 (b) or (c) would result in a substantial expense to the local exchange carrier which could not be recouped by the rates for services to which the expense relates. For example, if a local exchange carrier was required to provide interconnection and it did not have the proper operational support systems to provision, maintain, and bill for the required interconnection, the local exchange carrier would have to invest in operational support systems to meet the requirement. This could result in an expenditure amounting to hundreds of thousands of dollars to fulfill one interconnection request. Any pricing rules adopted by the Commission could constrain a local exchange carrier's ability to recover the amounts invested to meet the request through the rates charged for the interconnection. An expenditure of this magnitude that could not be recovered through rates charged for the service would be unduly burdensome.

Another guideline the states should be required to consider in determining whether a requirement is unduly economically burdensome is whether the requirement would result

in a transfer of implicit subsidies designed to meet public policy objectives from the incumbent LEC to the competing telecommunications carrier. For example, many small and mid-size LECs charge residential customers rates for basic local service which do not cover the cost of providing the service. Some LECs receive universal service funding to cover a portion of the differential between the rates charged to residential customers and the cost of providing the service. However, in many cases LECs also rely on implicit subsidies to supply basic local residential service at current rates. It is clear that Congress intended the provision of universal service at affordable rates to be funded through a universal service support mechanism, not implicit subsidies. Section 254 (e) states with regard to universal service support, "Any such support should be explicit and sufficient to achieve the purposes of this section." Thus, it appears that the funding of universal service is to be handled through explicit mechanisms, and requiring small and mid-size LECs to fund it through implicit subsidies passed on to competing carriers through below-cost rates is unduly economically burdensome.

III. PROVISIONS OF SECTION 252

B. Section 252(i)

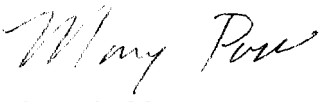
Lincoln believes that rates, terms, and conditions of agreements filed with the states should only be made available for the time period for which the agreement on file has been negotiated. Paragraph 272 of the NPRM requests comment on the length of time that the terms of agreements approved by the states for interconnection, service or network elements must be made available. Report language by the Committee on Commerce,

Science, and Transportation[10] for Section 21 (g) of S. 652 as passed by Committee, which is nearly identical to Section 252 (I) of S. 652 as enacted, states that the Committee, "intends this requirement to help prevent discrimination among carriers and to make interconnection more efficient by making available to other carriers the individual elements of agreements that have been previously negotiated." (emphasis added). Thus, it appears that the intent of this requirement was to make information generally available about rates, terms and conditions to prevent discrimination, but not to freeze rates, terms, and conditions by making them available to others for an unlimited period of time. Rates will need to be adjusted through various negotiations to reflect changes in cost and market demand, thus, it would be unreasonable to require rates in agreements on file to be available for a period longer than that for which the original agreement was negotiated.

10/ Senate Report No. 104-23, 104th Congress, 1st Session, 1996, for Section 251 (g) of S. 652 as passed by Committee, which is nearly identical to Section 252 (I) of S. 652 as enacted.

Respectfully submitted,

THE LINCOLN TELEPHONE AND TELEGRAPH COMPANY



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